

REMARKS

The Examiner has rejected independent claims 1 and 7 under 35 U.S.C. § 103 as being obvious in view of Berry (5,863,053) and Bonzer et al. (4,559,669). According to the Examiner, the combination of Berry and Bonzer would result in a teaching of the creeper of the instant invention. However, the combination of Berry and Bonzer et al. actually teaches away from the instant invention.

The apparatus resulting from the combination of Berry and Bonzer et al. would have the casters disclosed in Bonzer et al. attached to the side rails disclosed in Berry. Such a combination teaches that the caster wheels would have to be substantially deformable when in use to maintain contact with a floor's surface. For example, according to Bonzer et al. in Column 5, lines 24-25, the Shore hardness of the annular tire portion 69 of wheel 18 "is preferably between about 50 and 70 on the A scale." As a result, the annular tire portion 69 is easily deformable. Therefore, when a user is positioned on the apparatus resulting from the combination of Berry and Bonzer et al., the user's weight will cause the section of the annular tire portion 69 in contact with the floor to deform.

When in use, the deformation of the wheel 18 will substantially flatten the section of the annular tire portion 69 in contact with the floor. In fact, the section of the annular tire portion 69 in contact with the floor would resemble that of a flat or rectangular cross-sectioned wheel. Such contact would maximize the amount of friction between the wheels and the floor, and limit the mobility of the apparatus. This is exactly what the present invention is attempting to avoid. That is, unlike the creeper of the instant invention, the apparatus resulting from the combination of Berry and Bonzer et al. does not allow the apparatus to turn with less force exerted by the user. Furthermore, since Bonzer et al. teaches and requires the use of deformable wheels, substituting a substantially non-deformable wheel is not suggested by this reference or a combination of references including Bonzer et al.

The hemispherical or semi-elliptical wheels of the instant invention, on the other hand, are designed to minimize contact with the floor.

When in use, the wheels of the instant invention according to claim 1 have "a wheel body with a radial surface wherein the width of contact between said radial surface and a work surface upon which the creeper is placed is from about 50 to 75 percent of the maximum width of said wheel body," and the wheels according to claim 7 have a "hemispherical or semi-elliptical cross-section." The wheels of the instant invention, therefore, maximize the mobility of the creeper by minimizing the friction between the wheels and the floor. As a result, independent claims 1 and 7 have been amended to more fully define the resiliency of the shape of the wheels of the caster assemblies.

Furthermore, with respect to the limitation in claim 7 concerning the cross-sectional shape of the side rails, the Examiner contends that the "shape of the side rail cross section is not patentable unless it produces an unexpected result." It should be noted, however, that the cross-sectional shape of the side rails does produce an unexpected result. The cross-sectional shape of the side rails provides a planar surface for attachment of the side rails associated with only prior art side rails currently having a square or rectangular cross section, and provides the comfort associated with only prior art side rails currently having a circular cross section. Heretofore, such a result has not been available in conventional creepers.

The Examiner has also provisionally rejected claims 1-2, 7-8, 12, and 16-19 under the judicially created doctrine of double patenting. However, if claims 1-13 and 16-19 are deemed by the Examiner to be otherwise allowable, then a terminal disclaimer would be deemed appropriate.

In view of the foregoing discussion, it is believed that independent claims 1 and 7 are in condition for allowance. As such, reconsideration by the Examiner and the issuance of a Notice of Allowance of claims 1-13 and 16-19 is respectfully requested.

If any further issues remain after this amendment, a telephone call to the undersigned would be appreciated.

Respectfully submitted,



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